

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**CIVIL ACTION NO. 3:22-cv-00028**

**COMMERCIAL CREDIT GROUP, INC.,**

**Plaintiff,**

**v.**

**GRAZIANO BROTHERS, INC.,  
AUGUSTINE J. GRAZIANO, WILLIAM  
M. GRAZIANO, AND JAMES A.  
GRAZIANO,**

**Defendants.**

**NOTICE OF REMOVAL**

Defendants Graziano Brothers, Inc., Augustine J. Graziano, William M. Graziano, and James A. Graziano, ("Defendants"), through the undersigned counsel, submit this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441(a), and 1446 to remove this civil action from the General Court of Justice, Superior Court Division, County of Mecklenburg, State of North Carolina, to the United States District Court for the Western District of North Carolina. In support, Defendants state as follows:

**Introduction**

1. On December 22, 2021, Plaintiff Commercial Credit Group, Inc. filed its Complaint in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina initiating the case entitled *Commercial Credit Group, Inc. vs Graziano Brothers, Inc., Augustine J. Graziano, William M. Graziano, and James A. Graziano* (21-CVS-20322) (the "State Court Action").

2. The Complaint was served on the Defendants on December 24, 2021.

3. This Notice of Removal is timely filed in accordance with 28 U.S.C. § 1446(b)(1) because it is filed within thirty days of Defendant's receipt of the Complaint.

4. In accordance with 28 U.S.C. § 1446, copies of all process, pleadings, and orders served on Defendant in the State Court Action are attached hereto as **Exhibit A**, and consists of the Civil Summons, Complaint and the Affidavit of Service.

5. The time for Defendant to answer, move, or otherwise plead with respect to the Complaint has not yet expired.

6. This Notice of Removal is properly directed to this Court pursuant to 28 U.S.C. §§ 113(c) and 1446(a), because this district embraces the Superior Court of Mecklenburg County, North Carolina.

7. By filing this Notice of Removal, Defendant does not waive any procedural or substantive rights or defenses and does not admit that Plaintiff is entitled to any relief whatsoever.

8. Defendant is removing this matter based on diversity jurisdiction under 28 U.S.C. §§ 1332. This Court possesses original jurisdiction because, as explained below, this action arises between diverse citizens and Plaintiff seeks more than \$75,000 in damages.

#### **Diversity Jurisdiction**

9. The District Court has jurisdiction over the claims in this case pursuant to 28 U.S.C. § 1332 because this matter is between citizens of different states and, as alleged in paragraphs 13 through 15 of the Complaint, the amount in controversy is in excess of \$75,000.00 dollars.

10. According to paragraph 2 of Plaintiff's Complaint, Plaintiff is domiciled in North Carolina as it is Delaware Corporation authorized to transact in North Carolina with its principal place of business in North Carolina.

11. Further, according to Plaintiff's Complaint paragraphs 3 through 6, the Defendants are all citizens of Massachusetts.

12. Pursuant to paragraph 20 of the Note referenced at paragraph 8 of the Complaint, and paragraph 8 of the Guaranty referenced at paragraph 10 of the Complaint, the dispute can be litigated in either state or federal court in Mecklenburg County, North Carolina.

13. Federal District Courts have jurisdiction over any civil action where the matter in controversy exceeds \$75,000.00 and is between citizens of different states. 28 U.S.C. § 1332.

**Notice to Adverse Parties and State Court**

14. A Notice of Filing of Notice of Removal is being contemporaneously served upon all parties and provided to the Clerk of Court for the General Court of Justice, Superior Court Division of Mecklenburg County, North Carolina for filing, as required by 28 U.S.C. § 1446(d). A copy of the Notice of Filing of Notice of Removal has been attached as **Exhibit B**.

**WHEREFORE**, this action is properly removed from the General Court of Justice, Superior Court Division of Mecklenburg County to the United States District Court for the Western District of North Carolina, Charlotte Division, for all further proceedings in accordance with provision of 28 U.S.C. § 1441.

This the 24th day of January, 2022.

Respectfully submitted,

/s/ Lee D. Denton

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**CERTIFICATE OF SERVICE**

The undersigned certified that the foregoing **NOTICE OF REMOVAL** was electronically filed with the Clerk of Court using the CM/ECF system, and was served on counsel for Plaintiffs via email and United States Mail by placing same in a first-class postage prepaid envelope, addressed as follows:

Niall T. McLachlan  
Laura E. F. Thompson  
Ryan J. Ostrow  
Commercial Credit Group, Inc.  
525 N. Tryon Street, Suite 1000  
Charlotte, NC 28202

This the 24th day of January, 2022.

/s/ Lee D. Denton

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